

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 85/2021

Date of decision: 22nd January, 2021

IN THE MATTER OF:

SATULA DEVI Petitioner
Through Mr. Vikas Singh, Senior Advocate
with Mr. Varun Singh, Mr. Akshay
Dev, Mr. Satwik Misra and
Mr. Rishabh Rana, Advocate
versus
GOVT. OF NCT OF DELHI & ANR. Respondents
Through Mr. Hirein Sharma, APP for State
with S.I. Gunjan Sinha

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. The instant petition under Section 482 Cr.P.C. is filed for setting aside order dated 17.12.2020 passed by the learned Additional Session Judge, Patiala House Courts, New Delhi in Bail Application 1694/20 whereby the Additional Session Judge refused to cancel the Bail granted to the respondent No.2 in FIR No. 279 dated 21.09.2020, registered at Police Station Crime Branch, New Delhi, under Sections 323, 344, 406, 509, 411, 420 and 34 of IPC read with Section 12 of the Passport Act.
2. Brief facts leading to this case are as under:
 - a) The petitioner states that she is the lawfully wedded wife of Dr.

Mahendra Prasad, a Member of Parliament. She states that she has three children. She also states that she herself belongs to an extremely rich family and had brought large amounts of gold which was handed over to Dr. Mahendra Prasad. She states that she has been given 70% shareholding of the companies run by Dr. Mahendra Prasad.

- b) It is the allegation of the petitioner that the respondent No.2 came as a tutor of the children of the petitioner and Dr. Mahendra Prasad and within a short period of time she became a secretary in one of the companies owned by Dr. Mahendra Prasad and soon became a part of the family and started living with Dr. Mahendra Prasad. It is stated that the petitioner belonging to the orthodox family did not question Dr. Mahendra Prasad.
- c) It is stated that one of the sons of Dr. Mahendra Prasad passed away leaving his widow Mrs. Kanchana Rai and two children. It is alleged that Mrs. Kanchana Rai started residing with the respondent No.2 and they hatched a conspiracy to take control of the assets.
- d) It is stated that the respondent No.2 and Mrs. Kanchana Rai illegally transferred huge amounts of money from the accounts of the petitioner and Dr. Mahendra Prasad. It is further stated that Mrs. Kanchana Rai was a joint account holder with the petitioner and she siphoned money from the accounts of the petitioner. It is alleged that the respondent No.2 and Mrs. Kanchana Rai have also illegally transferred shares of the petitioner in favour of her children.

- e) It is stated that due to the degenerating mental illness respondent No.2 took complete control of the residence in which the petitioner and Dr. Mahendra Prasad were residing and she started beating and abusing the petitioner.
- f) It is alleged that the respondent No.2 has forged the signature of Dr. Mahendra Prasad and had made forged documents to disown the sons of Dr. Mahendra Prasad and petitioner.
- g) It is also alleged that the respondent No.2 has produced an affidavit before the Rajya Sabha wrongly claiming to be the wife of Dr. Mahendra Prasad.
- h) On a complaint, FIR No. 279 dated 21.09.2020, was registered against respondent No.2 at Police Station Crime Branch, New Delhi, under Sections 323, 344, 406, 509, 411, 420 and 34 of IPC read with Section 12 of the Passport Act.
- i) A writ of *Habeas Corpus* was filed by Mr. Ranjit Sharma, son of the petitioner and Dr. Mahendra Prasad in the Delhi High Court being **W.P. (Crl.) 2255/2019**, titled as R.S. v. State and Ors., alleging that Dr. Mahendra Prasad and the petitioner are in illegal confinement and detention of the respondent No.2.
- j) It is stated that the Division Bench of this court interacted with Dr. Mahendra Prasad and found that he was not of sound mental health. After perusing the Status Report filed by the police and medical reports of Dr. Mahendra Prasad a consensus was reached whereby the petitioner was permitted to continue to stay at C-1/21 Vasant Vihar, New Delhi.
- k) At this juncture, it is pertinent to mention that after investigation

in FIR No. 279 dated 21.09.2020, a charge-sheet was filed in the court of learned CMM on 30.09.2019, stating that the respondent No.2 has been charge-sheeted for offences under Sections 323, 344, 406, 509, 411, 420 and 34 of IPC read with Section 12 of the Passport Act.

- 1) It is stated in the charge-sheet that gold items and diamond jewellery has been recovered from respondent No.2 but some more jewellery is yet to be recovered.

3. The respondent No.2 filed an application for bail in FIR No. 279. The Additional Session Judge by an order dated 23.10.2019 granted bail to the respondent No.2/petitioner therein on the following terms :

- i. That the applicant shall continue to participate in the investigation as and when required or so intimated by the IO;
- ii. That the applicant shall make no attempt, directly or indirectly, to contact the complainant, his relatives, friends and witnesses of the present case;
- iii. That she shall furnish her mobile phone number to the police/IO/SHO which shall be kept operational at all times, so that the police could contact her;
- iv. That in case she changes his mobile number or residential address or work place, she shall inform the IO/SHO forthwith.
- v. That the applicant/accused shall not leave the country without the prior permission of the trial court.

4. An application for cancellation of bail was filed by the petitioner stating that respondent No.2 is staying with Dr. Mahendra Prasad and is

brazenly violating the order dated 22.09.2020 passed by the Division Bench of this court in W.P. (Crl.) 2255/2019. It is alleged that the respondent No.2 is not permitting the petitioner to meet Dr. Mahendra Prasad. It is alleged that in mid October, 2020 the petitioner received information that Dr. Mahendra Prasad is admitted to Apollo Hospital and on coming to know the petitioner rushed to the hospital. On reaching the hospital the respondent No.2 did not let the petitioner meet Dr. Mahendra Prasad which is in gross violation of the order dated 22.09.2020 passed by this court in W.P. (Crl.) 2255/2019. It is stated that Dr. Mahendra Prasad is suffering from '*fronto temporal dementia*' which is a very peculiar disease in which a person suffering from this disease has a very short-term memory and lacks cogent and intelligent decision making. It is stated that the respondent No.2 is trying her best to ensure that the petitioner does not meet Dr. Mahendra Prasad so that he cannot remember the petitioner. It is stated that evidence of Dr. Mahendra Prasad is very crucial for this case and the respondent No.2 is trying her best to prejudice the case filed against her and is violating the conditions of bail. It is further alleged in the application for cancellation of bail that substantial amount of gold items and other jewellery are yet to be recovered from the respondent No.2 for which it is necessary that the respondent No.2 remains in custody. It is further alleged that the respondent No.2 is threatening the witnesses by filing false cases against them which amounts to tampering with evidence and therefore the bail granted to the respondent No.2 must be cancelled.

5. The learned Additional Session Judge by his order dated 17.12.2020 rejected the application for cancellation of bail. A CD containing the incident which happened at the Apollo Hospital wherein it is alleged that the

respondent No.2 has not permitted the petitioner to meet Dr. Mahendra Prasad was shown. The learned ASJ after viewing the CD held that the allegations made on the basis of the CD can be decided only after evidence is led and even if the allegations made by the petitioner on the basis of the CD is accepted as true still it cannot be said that the respondent No.2 had contacted the petitioner and threatened them to turn hostile and has therefore violated the condition of bail. As regards the allegation that the action of the respondent No.2 in her not permitting the petitioner to meet her husband cannot be treated as the violation of the condition granting bail and that it was open to the petitioner to take appropriate remedy before this court. The learned Additional Session Judge held that merely because a few jewellery items have not been recovered it cannot be said that there is a ground in itself for cancellation of bail. Learned Additional Session Judge held that since the charge-sheet has already been filed and the respondent No.2 is an elderly woman who is suffering from cancer and has undergone surgery and that if she is sent to jail she would be vulnerable there and can be infected with COVID-19. The learned Additional Session Judge dismissed the application for cancellation of bail.

6. The said order has been challenged in the instant petition under Section 482 Cr.P.C.

7. Mr. Vikas Singh, learned Senior Advocate appearing for the petitioner would contend that on the day of *Karwa chauth* the petitioner wanted to meet her husband and the respondent No.2 ensured that the petitioner does not meet her husband. He would further state that when her husband was admitted to Apollo Hospital the respondent No.2 did not permit the petitioner to meet her husband. He would contend that this conduct is a

blatant violation of the directions passed by this court in the judgment dated 22.09.2020 in W.P. (Crl.) 2255/2019 and is also a violation of the condition granting bail. He would further submit that the respondent is filing false complaints against the witnesses in the criminal case and this amounts to tampering with evidence. He would state that substantial recovery of gold items is yet to be made and therefore the bail granted to the respondent No.2 must be cancelled. Mr. Singh would further submits that the allegation for the offence under Passport Act is that she has got her passport falsely claiming that she is the wife of Dr. Mahendra Prasad. He states that she has masqueraded herself as the wife of Dr. Mahendra Prasad and is continuing to do so. He states that this amounts to perpetrating the offence of which she has been charged and therefore bail granted to her vide order dated 23.10.2019, should be cancelled.

8. The Supreme Court has time and again held that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. The broad grounds laid down by the Supreme Court for cancellation of bail have been stated in Dolat Ram v. State of Haryana, reported as (1995) 1 SCC, 349, which reads as under:

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of

material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted.” (emphasis supplied)

9. It is also well settled that cancellation of bail necessarily involves a review of a decision already made and it should be used very sparingly by a court of law.

10. The allegation that the respondent No.2 has not permitted the petitioner to meet her husband cannot be said to be a violation of the conditions of order dated 23.10.2019, granting bail to the respondent No.2 herein. This court is not in a position to agree with the submissions of Mr. Vikas Singh, learned Senior Advocate appearing for the petitioner that it is a violation of the second condition in the order dated 23.10.2019, wherein the learned Additional Session Judge while granting the bail has directed that the respondent No.2 shall not make any attempt directly or indirectly to contact the complainant/petitioner herein. If the petitioner feels that the order dated 22.09.2020 in W.P. (Crl.) 2255/2019 is being violated, the petitioner has to take appropriate steps in the writ petition.

11. Mr. Vikas Singh has shown the CD to substantiate his contention that the respondent No.2 has not permitted the petitioner to meet her husband in Apollo Hospital which according to him is a violation of the order dated 23.10.2019 granting bail. This court is unable to accept the contention of

Mr. Vikas Singh, learned Senior Advocate. This is not a violation of any of the condition granting bail. The petitioner has failed to give any instance to show that the respondent No.2 has contacted the petitioner and has threatened her which will amount to tampering with evidence in the criminal case.

12. The allegations that the respondent No.2 has been filing false complaints against the witnesses in order to pressurise the witnesses which amounts to tampering with evidence in the criminal case also cannot be accepted for the reason that these are matters to be investigated by the police and only during the investigation the correctness of the allegations can be ascertained and till the investigation is not complete the bail granted to the respondent No.2 vide order dated 23.10.2019 cannot be cancelled.

13. The allegation that the respondent No.2 is masquerading herself as the wife of Dr. Mahendra Prasad and therefore this amounts to violation of one of the conditions of the bail granted also cannot be accepted. The allegation under Section 12 of the Passport Act is that she has obtained the passport masquerading herself as wife of Dr. Mahendra Prasad. There is nothing before this court to show that the respondent No.2 has committed an offence while masquerading as the wife of Dr. Mahendra Prasad. The allegation that the respondent No.2 is still claiming herself to be the wife of Dr. Mahendra Prasad and therefore has violated the condition of the order granting bail cannot be accepted.

14. The learned Additional Session Judge has taken into account all the factors while dismissing the application for cancellation of bail. It cannot be said that the said order is perverse warranting interference by this court in exercise of its powers under Section 482 of the Cr.P.C. This court is not

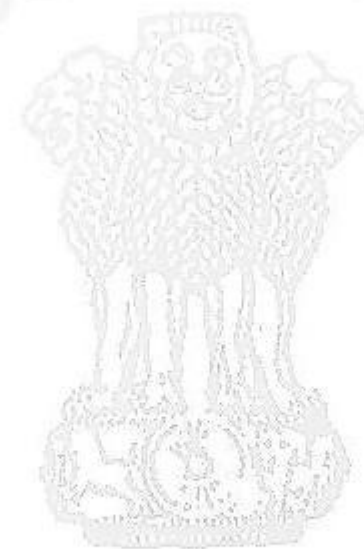
inclined to go into excruciating details on facts for substituting its own conclusion to one arrived at by the learned Additional Session Judge while exercising its jurisdiction under Section 482 of the Cr.P.C which is directed against the order dated 17.12.2020 passed by the learned Additional Session Judge.

15. Accordingly, the petition is dismissed.

SUBRAMONIUM PRASAD, J

JANUARY 22, 2021

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